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To: US Patent & Trademark Office	From: Joanne Ryan
Fax: 571-273-8300	Pages: 16 (including cover)
Phone:	Date: March 21, 2007
Re: 09/873,160	CC:
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

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If you received this communication in error, please immediately notify us by a collect telephone call to the writer and return the original message and documents to us at the above address via the United States postal service.

Please see the attached REQUEST TO WITHDRAW NOTICE OF ABANDONMENT (3 pp.) and accompanying documents:

1. Copy of Notice of Abandonment, 2 pp.
2. Request for Customer Number Data Change, 1 p.
3. Notice of Customer Number Record Change, 1 p.
4. Copy of Utility Patent Application Transmittal, showing Customer Number submitted
5. Copy of M. Scariati fax transmittal to Examiner Yimam, 3 pp.
6. Copy of letter to EBC re Customer Number and spreadsheet for upload, 2 pp.
7. Copy of urgent email to EBC re Customer Number, 5/31/2006, 1 p.
8. Copy of Auto-Reply Fax for Change of Correspondence Address, 5/31/2006

Serial No.: 09/873,160

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Office of Petitions, at: 571-273-8300 on 3/21/07.

Sig: Joanne Ryan
Joanne Ryan

Date: 3/21/07

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MAR 21 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert L. Howald et al.

Serial No.: 09/873,160

Filed: 06/01/2001

Title: A SYSTEM FOR IMPROVED RETURN PATH PERFORMANCE FOR
DIGITAL COMMUNICATION SIGNALS USING A SAMPLED RF WORD
INTERFACE TO HEADEND MODULATORS

Art Unit: 2623

Examiner: Yimam, Harun M.

Confirm No.: 3064

Customer Number: 27774

Docket No.: D2370

Via Facsimile: 571-273-8300
Office of Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REQUEST TO WITHDRAW NOTICE OF ABANDONMENT

Sir:

This Request to Withdraw the Notice of Abandonment is filed in response to the Notice of Abandonment mailed July 3, 2006 (copy enclosed). As per the Notice of Abandonment, the applicant failed to file a response to the Office Action mailed on March 10, 2005. The Notice of Abandonment was issued in error, as the Office Action dated March 10, 2005 was mailed to an incorrect address and Applicants' attorney did not receive the Office Action.

Serial No.: 09/873,160

Applicants' attorney moved the firm's office in September 2001, and a Request for Customer Number Data Change (copy enclosed) was filed with the PTO on September 20, 2001, changing the firm's address to the current address associated with customer number 27774. As the PTO inadvertently failed to associate the above-referenced application with our customer number in June 2001, the change of correspondence address made via our customer number in September 2001 was not made in the above-referenced application. A copy of the Notice of Customer Number Record Change received from the PTO, dated September 24, 2001 is attached, along with a copy of the Utility Patent Application Transmittal received by the PTO, which included our Customer Number 27774 when filed on June 1, 2001.

Because the change of correspondence address made via our customer number was not made in the above-referenced application, the office action mailed March 10, 2005 was returned to the PTO on March 24, 2005. On October 12, 2005, Marjorie Scariati, paralegal for Applicant's attorney, discovered on PAIR that the office action had been mailed but never received and spoke with Examiner Harun Yimam regarding the above application. She sent Examiner Yimam via facsimile copies of the Utility Patent Application Transmittal, the Request for Customer Number Data Change and the Notice of Customer Number Record Change, as referenced above. Per the suggestion of Examiner Yimam, Applicants' attorney on October 12, 2005 sent a letter to the Electronic Business Center (copy enclosed) requesting the association of the above-referenced application with our Customer Number and provided the Examiner with the current address for re-mailing of the office action. (A Notice of Abandonment had not yet been mailed, although it was too late to respond to the action.)

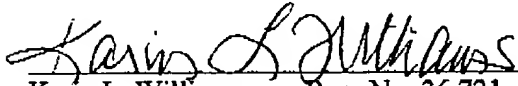
Despite the efforts of Applicants' attorney, the above-referenced application was still not associated with our Customer Number in May 2006. On May 31, 2006, in order to avoid the mailing of a Notice of Abandonment, Ms. Scariati emailed the Electronic Business Center urgently requesting that the above-referenced application be associated with our customer number so that the examiner would not re-mail the office action to the incorrect address for a second time. Additionally, Applicants' attorney filed a Change of Correspondence Address form (copy enclosed) in a further effort to associate the above-referenced application with our Customer Number.

Serial No.: 09/873,160

The Change of Correspondence Address was received by the PTO, and the correspondence address for the above-referenced application was subsequently changed to the correct address associated with our customer number on June 5, 2006. However, despite our many efforts since September 2001 to have the PTO associate the above-referenced application with our customer number and the correct correspondence address, the application was deemed abandoned on June 26, 2006, and a notice of abandonment was mailed July 3, 2006.

As Applicants' attorney believes that every reasonable effort was made to have the above-referenced application associated with our customer number and the correct correspondence address, it is respectfully requested that the Notice of Abandonment be withdrawn, and that the Office Action dated March 10, 2005 be reissued and mailed to the customer number and address with which the above-referenced application is now associated.

Respectfully submitted,



Karin L. Williams Reg. No. 36,721
Mayer & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090

Tel.: 908-518-7700

Fax: 908-518-7795



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,160	06/01/2001	Robert L. Howard	D2370	3064
2774	7590	01/03/2006	EXAMINER	
MAYER & WILLIAMS PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090			YIMAM, HARUN M	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

*File Retition to withdraw Abcament
by 7/3/07*

Notice of Abandonment

Application No.

09/873,160

Examiner

Harun M. Yimam

Applicant(s)

HOWALD ET AL.

Art Unit

2623


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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 10 March 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____ but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

No response has been filed to the office action dated 03/10/05. The change of correspondence address was received over a year after the office action was mailed, dated 03/10/05.


**CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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MAR 21 2007

PTO/SB/124A (8-86)

Approved for use through 8/30/99. OMB 0651-0035

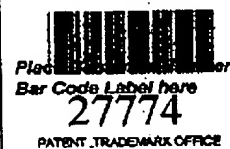
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Customer Number
Data Change****Address to:**Assistant Commissioner for Patents
Box CN
Washington, DC 20231To the Commissioner of Patents and Trademarks:
Please record the following data changes to Customer Number:

Type Customer Number here

27774

☒ Please change Correspondence Address to:

Firm or Individual Name	MAYER FORTKORT & WILLIAMS, PC				
Address	251 NORTH AVENUE WEST				
Address	2nd FLOOR				
City	WESTFIELD	State	NJ	ZIP	07090
Country	USA				
Telephone	908-518-7700	Fax	908-518-7795		

☐ Please delete the following practitioner registration number (s) from the Customer Number indicated above:

☒ Please add the following practitioner registration numbers to the Customer Number indicated above:

43,435				

☐ Additional practitioner registration numbers are listed on supplemental sheet(s) attached hereto**Request Submitted by:**

Firm Name (if applicable)	Mayer Fortkort & Williams, PC		
Name of Person submitting request	Marjorie Scariati		
Signature	<i>Marjorie Scariati</i>		
Telephone Number	908-518-7700	Date	9/20/01

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CN, Washington, DC 20231.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

**CUSTOMER
NUMBER:** 27774
**CORRESPONDENCE
ADDRESS:**

MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

FAX: 908-518-7795
E-MAIL:

PHONE: 908-518-7700

Date Mailed: 09/24/2001

NOTICE OF CUSTOMER NUMBER RECORD CHANGE

The request to change the information associated with the above-identified Customer Number has been accepted by the Commissioner of Patents and Trademarks.

The Customer Number may be used to identify the correspondence address or "fee address" for, and/or the appointed practitioner(s) in, a United States patent application or patent. The correspondence address and registration numbers indicated on this notice reflect the current correspondence address and registration numbers associated with the above-identified Customer Number.

PRACTITIONER REGISTRATION NUMBER(S) ASSIGNED TO THAT CUSTOMER NUMBER:

34067, 34297, 35141, 35277, 36721, 38454, 38666, 43435.

D. J.

Patents Electronic Business Center
(703) 305-3028

PART 1 - ATTORNEY/APPLICANT COPY

Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**UTILITY
PATENT APPLICATION
TRANSMITTAL**

(Only for non-conventional applications under 37 CFR 1.63(a))

Attorney Docket No.

D2370

First Inventor

Robert L. Howell et al.

Title

A SYSTEM FOR IMPROVED RETURN PATH PERFORMANCE

Express Mail Label No.

ET021132194US

APPLICATION ELEMENTS

See MPEP chapter 500 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB417)
(Submit an original, and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification (Total Pages **15**)
(preferred arrangement set forth below)
- Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the invention
 - Brief Summary of the invention
 - Brief Description of the Drawings (if req)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) (Total Sheets **3**)
5. Oath or Declaration (Total Pages **3**)
- a. ☒ Newly executed (original or copy)
- b. ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
1. ☐ **DELETION OF INVENTOR(S)**
Signed statement, attached deleting inventor(s)
named in the prior application, see 37 CFR
1.63(d)(2) and 1.330(b)
6. ☐ Application Data Sheet. See 37 CFR 1.78

ADDRESS TO:Address in Comments only for Patents
Not Patent Applications
Washington, D.C. 20591

7. ☐ CD-ROM of CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
- a. ☐ Computer Readable Form (CRF)
- b. Specification Sequence Listing on:
- 1. ☐ CD-ROM or CD-R (2 copies); or
 - 2. ☐ paper
- c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☒ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☒ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 505)
(Should be specifically limited)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Request and Certification under 35 U.S.C. 122
(b)(2)(B)(i). Applicant must attach form PTO/SB/35
or its equivalent.
17. ☐ Other

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment.
or in an Application Data Sheet under 37 CFR 1.78:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No. _____

Prior Application Information:

Examiner:

Group / Art Unit

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5a, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

18. CORRESPONDENCE ADDRESS☒ Customer Number or Bar Code Label

27774

or ☐ Correspondence address below

(Insert Customer No. or Attach bar code label here)

Name			
Address			
City	State	Zip Code	
Country	Telephone	Fax	

Name (Print/Type) Karin L. Williams

Registration No. (Attorney/Agent)

36,723

Signature

Karin L. Williams

Date

10/1/01

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Tel.: (908) 518-7700
Fax: (908) 518-7795

Mayer & Williams PC
Attorneys At Law

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MAR 21 2007

Fax

To: Examiner Harun Yimam **From:** Marjorie Scariati
Fax: 571-273-7260 **Pages:** 5
Phone: 571-272-7260 **Date:** 10/12/2005
Re: 09/873,160 **CC:**
☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

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Examiner Yimam,

Per our conversation a few moments ago, attached please find a copy of the Utility Patent Application Transmittal received by the PTO, which included our customer number, 27774, when filed on June 1, 2001.

Also attached is a copy of our fax to the Patents Electronic Business Center of 9/20/01, providing the PTO with the new address to be associated with our customer number, effective 9/24/01. The Notice of Customer Number Record Change received from the PTO, dated 9/24/01, is also attached, confirming that our correspondence address had been updated on that date per our request.

As the PTO inadvertently failed to associate this application with our customer number in June 2001, the change of correspondence address made via our customer number in 9/2001 was not made in this application and the office action mailed 3/10/05 was returned to the PTO.

October 12, 2005

I will contact the Patents Electronic Business Center today, requesting that this application be associated with customer number 27774. In the meantime, kindly reissue the Office Action mailed 3/10/05, mailing to our current address: 251 North Avenue West, 2nd Floor, Westfield, NJ 07090 so as to avoid the unintentional abandonment of the application.

Thank you,
MAYER FORTKORT & WILLIAMS


Marjorie Scariati
Senior Patent Paralegal

To: Examiner Harun Yimam **From:** Marjorie Scariati

Fax: 571-273-7260 **Pages:** 5

Phone: 571-272-7260 **Date:** 10/12/2005

Re: 09/873,160 **CC:**

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Note					

Oct 12 2005 15:16

P.1

** Transmit Conf. Report **

MAYER FORTKORT WILLIAM Fax:908-518-7795

Mar 21 2007 10:21 P.12

MAYER & WILLIAMS PC Fax:908-518-7795

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David B. Bonham †§
Suzanne M. Parker ∞†§

OF COUNSEL
Melvin Goldstein ∞

† admitted in Virginia
§ admitted in Washington, D.C.
∞ admitted in Maryland

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251 North Avenue West, 2nd Floor
Westfield, NJ 07090
(908) 518-7700
(908) 518-7795 (fax)

Stuart H. Mayer *§
Karin L. Williams †
Keum J. Park *†§

OF COUNSEL
Heather L. Mansfield †

* admitted in New Jersey
† admitted in New York
∞ admitted in Massachusetts

*ADDILL
D2370
to an Cust. # -
Correct PTO
error*

October 12, 2005

Mail Stop EBC
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

To Whom It May Concern:

Enclosed please find a diskette containing a Customer Number Upload Spreadsheet for our customer number 27774. Please associate the (1) pending application listed on the spreadsheet with our customer number 27774.

Please update the PTO data base and generate a change of address letter for the application accordingly.

Thank you,
Mayer Fortkort & Williams

Marjorie Scariati
Marjorie Scariati
Senior Patent Paralegal

Enclosure

027774

Mayer, Fortkort & Williams, PC
251 North Avenue West
2nd Floor
Westfield, NJ 07090
Tel.: 908-518-7700
Fax: 908-518-7795

09/873,160

YES

NO

Marj Scariati

From: Marj Scariati [mscariati@mwpatentlaw.com]
Sent: Wednesday, May 31, 2006 5:26 PM
To: 'EBC@uspto.gov'
Subject: urgent customer no upload spreadsheet question

The attached letter w/diskette was mailed to the EBC on 10/12/05 requesting the association of application number 09/873,160 with our firm's customer # 027774, but to date, this application has not been associated with customer #027774. The utility transmittal filed with the application on 6/1/01 included customer #027774 and so, this application should have been associated with customer #027774 since the filing date, but due to multiple PTO errors, has never been associated with our firm's customer #.

As a result, an Office Action was mailed to our former address on 3/10/05, and was returned to the PTO on 3/24/05 as the address was not current. We have been trying to update the correspondence address for this application to the address associated with customer number 027774 since October 2005. It is imperative that the update be made as the application is in limbo. We do not want the examiner to re-mail the Office Action until the address is updated as it will be mailed to the wrong address for a second time. We also do not want the application to be unintentionally abandoned.

Please advise when we can expect the association of this application with customer #027774 to be completed.

Thank you,

Marjorie Scariati
Senior Patent Paralegal

Mayer & Williams PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090
Tel.: 908-518-7700 x5
Fax: 908-518-7795

5/31/2006

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